

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1479 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements? -
2. To be referred to the Reporter or not? - :
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement? -
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? -
5. Whether it is to be circulated to the Civil Judge? : NO
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ARUNKUMAR JAISINGRAO PAVALE

Versus

SHALINI RAMAKANT PAVALE

Appearance:

MR UNMESH D SHUKLA for Petitioner

MR CB DASTOOR for Respondent No. 1, 2, 3, 4, 5

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 20/06/2000

ORAL JUDGEMENT

Heard learned counsel for the parties.

2. This Revision Application has been filed against the impugned order dated 1-7-1999 passed on the application exh. 42 filed in Civil Suit No. 1544/94. The said application exh. 42 was moved for production of the document mark 20/3. It is stated that the respondents no. 1 to 4 are the plaintiffs and respondent

no. 1 is widow, respondents no. 2 and 4 are children and the respondent no. 5 is married daughter of deceased Ramakant Pavle.

3. The petitioner is defendant no. 1 who is brother of deceased Ramakant Pavle. The aforesaid suit has been filed by the respondents no. 1 to 4 for specific performance of the contract. The contention of the learned counsel for the petitioner is that the document mark 20/3 is in possession of one Shivajirao Pavle and that document mark 20/3 is not relevant in the present case and has no concerned with the matter in dispute. Even then, the trial Judge has passed the order directing the concerned party to produce the original document mark 20/3 through the witness Shivajirao Pavle by the impugned order dated 1-7-1999.

4. From the impugned order dated 1-7-1999 it does not appear that the document mark 20/3 is relevant to the facts and circumstances of the case. It is informed by the learned counsel for the petitioner that by the document mark 20/3 arrangement of the family properties has been made. Learned counsel for the respondents submitted that matter in dispute is in respect of the partition of the family properties for which was to be given to the petitioner on production of the document in question. Learned trial Judge has only mentioned that if the such document is directly affecting the facts and circumstances of the case of the suit then the same is required to bring on record of the case in the interest of justice. But nothing has been disclosed in a stretch of a word that as to how that document is relevant to the facts and circumstances of the case.

5. Considering the facts and circumstances of the case, it would be just and proper to remand the matter to the trial Judge directing him to reconsider and decide the matter by an appropriate speaking order in accordance with law explaining relevance of production of document mark 20/3 within a period of two weeks without prejudice to the rights and contention of the parties and without being influenced of this order.

6. Accordingly, this Revision Application is allowed and the impugned order dated 1-7-1999 passed on the application exh. 42 in Civil Suit No.1544/94 pending in Civil Court (SD), Vadodara is hereby quashed and set aside and the matter is remanded back to the trial Judge. The trial Judge is directed to reconsider and decide the matter explaining relevance of production of the document mark 20/3 by passing an appropriate speaking order in

accordance with law after giving reasonable opportunity of hearing to the parties, within a period of two weeks from the date of production of a certified copy of this order by either of the parties. The trial Judge shall decide the matter without prejudice to the rights and contentions of the parties as well as without being influenced by this order. Rule is made absolute to the aforesaid extent, with no order as to costs. Interim relief stands vacated.

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/JVSatwara/